

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

B.W.,

Plaintiff,

VS.

CITY OF ST. LOUIS,
MISSOURI, et al.,

Defendants.

Case No. 4:18-CV-1025 HEA



VIDEO DEPOSITION OF JOHN STEWART
TAKEN ON BEHALF OF THE PLAINTIFF

December 10, 2018

KELLY J. DANIELS
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EASTERN DISTRICT OF MISSOURI
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B.W.,)	
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Plaintiff,)	
)	Case No. 4:18-CV-1025 HEA
VS.)	
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CITY OF ST. LOUIS,)	
MISSOURI, et al.,)	
)	
Defendants.)	

DEPOSITION OF JOHN STEWART, produced, sworn, and examined on December 10, 2018, between the hours eight o'clock in the forenoon and six o'clock in the afternoon, of that day, at the office of Mr. James W. Schottel, 906 Olive Street, PH, St. Louis, Missouri, before Kelly J. Daniels, Certified Court Reporter and Notary Public in and for the State of Missouri and Certified Shorthand Reporter in and for the State of Illinois in a certain cause now pending in the United States District Court, Eastern District of Missouri.

A P P E A R A N C E S:

Mr. James W. Schottel, Jr.
Schottel & Associates, P.C.
906 Olive Street, PH
St. Louis, Missouri 63101

For the Plaintiff.

Mr. J. Thomas Mudd
HeplerBroom
One Metropolitan Square
211 North Broadway, Suite 2700
St. Louis, Missouri 63101

For the Defendants.

Mr. Lou Stemmler, Videographer

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1 IT IS HEREBY STIPULATED AND AGREED by and
2 between Counsel for the Plaintiff and Counsel for the
3 Defendants, that this deposition may be taken in
4 shorthand by KELLY J. DANIELS, a Certified Court
5 Reporter and Notary Public, and afterwards
6 transcribed into typewriting and waived by consent
7 and agreement in my presence.

8 O-O-O

9 **JOHN STEWART,**

10 Of lawful age, produced, sworn, and examined on
11 behalf of the PLAINTIFF, deposes and says:

12 MR. SCHOTTEL: At this time counsel and I
13 would make an announcement that in the pleadings
14 because of the nature of the allegations in the case
15 the plaintiff who I represent has been represented by
16 her initials in all the public pleadings. In this
17 deposition counsel and I have agreed to use the
18 plaintiff's full name and that if any portion of this
19 deposition is filed in the case that we will do an
20 appropriate redaction of plaintiff's name to B.W.; is
21 that correct, counsel?

22 MR. MUDD: Yes. We would stipulate to
23 that, and I would just add I know that Mr. Schottel
24 has had discussions with Tom Magee from my office,
25 who also represents Mr. Stewart in this matter.

1 Mr. Stewart intends to invoke his Fifth Amendment
2 privilege against self-incrimination during this
3 deposition in response to questions from
4 Mr. Schottel, but we have produced him here today, so
5 he is available for his deposition.

6 MR. SCHOTTEL: Correct. And on that note
7 I have a question then. Just the few basic questions
8 will he answer that aren't even about the case like
9 name, date of birth?

10 MR. MUDD: I consulted with Mr. Magee
11 about those kinds of basic questions, and we don't
12 want to get too close to the line, so he -- we intend
13 to invoke the Fifth Amendment even for some of the
14 more basic questions.

15 MR. SCHOTTEL: Even for the -- okay.
16 That's fine. Because I was even going to stop and
17 say this is the point where, but okay. I'll ask him
18 anyway. I will ask a couple anyway.

19 MR. MUDD: Okay.

20 MR. SCHOTTEL: And there's a few others
21 that I have to ask.

22 MR. MUDD: Sure.

23 MR. SCHOTTEL: All right. Did you swear
24 in the witness already?

25 THE REPORTER: Yes.

DIRECT EXAMINATION

QUESTIONS BY MR. SCHOTTEL:

Q. Could you state and spell your current address?

A. On advice of counsel I invoke my Fifth Amendment privileges against self-incrimination under the United States Constitution and under Article I, Section 19 of Missouri Constitution. I respectfully decline to answer your question.

Q. Mr. Stewart, I represent B [REDACTED] W [REDACTED] in this case against you that's now pending in the Federal Court for the Eastern District of Missouri. I understand what counsel has said at the beginning of this deposition, but I still have to read this to you. I will be asking you a series of questions. If you do not understand a question, ask me to repeat it or rephrase it. Don't answer a question by nodding your head or going uh-huh or uh-uh because the court reporter has spoken -- taking down everything that's spoken today. Are you presently under the influence of any substance drug whether prescription or nonprescription that would affect your ability to understand my questions and give testimony today?

A. On the advice of counsel I invoke my Fifth Amendment privilege against self-incrimination under

1 the United States Constitution and under Article I,
2 Section 19 of the Missouri Constitution. I
3 respectfully decline to answer your question.

4 Q. Have you ever been convicted of a
5 misdemeanor or a felony?

6 A. On the advice of counsel I invoke my Fifth
7 Amendment privileges against self-incrimination under
8 the United States Constitution and under Article I,
9 Section 19 of Missouri Constitution. I respectfully
10 decline to answer your question.

11 MR. SCHOTTEL: I'll have that question
12 certified for the Court. And I guess moving forward
13 there are a handful of questions that I believe
14 should be answered, and we can take that up with the
15 judge, so he can answer how he is going to answer. I
16 am just going to have the question certified and we
17 can bring it up to the Court to see whether he should
18 answer or should not answer. If the Fifth Amendment
19 is appropriate. That's what I did the last time I
20 had this situation.

21 MR. MUDD: And that's okay. Understood.

22 Q. (By Mr. Schottel) Okay. On or about June
23 12, 2015 were you working as a police officer for the
24 City of St. Louis?

25 A. On the advice of counsel I'm invoking my

1 Fifth Amendment privileges against self-incrimination
2 under the United States Constitution and under
3 Article I, Section 19 of the Missouri Constitution.
4 I respectfully decline to answer your question.

5 MR. SCHOTTEL: Have that question
6 certified for the Court.

7 Q. (By Mr. Schottel) On or about June 12,
8 2015 were you dispatched to the residence of B [REDACTED]
9 W [REDACTED]?

10 A. On the advice of counsel I invoke my Fifth
11 Amendment privilege against self-incrimination under
12 the United States Constitution and under Article I,
13 Section 19 of Missouri Constitution. I respectfully
14 decline to answer your question.

15 Q. On or about June 12, 2015 did you travel
16 to the residence of B [REDACTED] W [REDACTED] while in your
17 police uniform as a police officer for the City of
18 St. Louis?

19 A. On the advice of counsel I invoke my Fifth
20 Amendment privileges against self-incrimination under
21 the United States Constitution and under Article I,
22 Section 19 of the Missouri Constitution. I
23 respectfully decline to answer your question.

24 Q. Did you encounter B [REDACTED] W [REDACTED] on or
25 about June 12, 2015?

1 A. On the advice of counsel I invoke my Fifth
2 Amendment privilege against self-incrimination under
3 the United States Constitution and under Article I,
4 Section 19 of the Missouri Constitution. I
5 respectfully decline to answer your question.

6 Q. On or about June 12, 2015 did you ask
7 B [REDACTED] W [REDACTED] if she was freaky?

8 A. On the advice of counsel I invoke my Fifth
9 Amendment privilege against self-incrimination under
10 the United States Constitution and under Article I,
11 Section 19 of the Missouri Constitution. I
12 respectfully decline to answer your question.

13 Q. On or about June 12, 2015 did you tell
14 B [REDACTED] W [REDACTED] that she looked good?

15 A. On the advice of counsel I invoke my Fifth
16 Amendment privilege against self-incrimination under
17 the United States Constitution and under Article I,
18 Section 19 of the Missouri Constitution. I
19 respectfully decline to answer your question.

20 Q. On or about June 12, 2015 did you tell
21 B [REDACTED] W [REDACTED] that you wanted her to have oral sex
22 on you?

23 A. On the advice of counsel I invoke my Fifth
24 Amendment privilege against self-incrimination under
25 the United States Constitution and under Article I,

1 Section 19 of the Missouri Constitution. I
2 respectfully decline to answer your question.

3 Q. On or about June 12, 2015 did you expose
4 your penis to B [REDACTED] W [REDACTED]?

5 A. On the advice of counsel I invoke my Fifth
6 Amendment privilege against self-incrimination under
7 the United States Constitution and under Article I,
8 Section 19 of the Missouri Constitution. I
9 respectfully decline to answer your question.

10 Q. On or about June 12, 2015 did you insert
11 your penis into B [REDACTED] W [REDACTED] vagina without her
12 consent?

13 A. On the advice of counsel I invoke my Fifth
14 Amendment privilege against self-incrimination under
15 the United States Constitution and under Article I,
16 Section 19 of the Missouri Constitution. I
17 respectfully decline to answer your question.

18 Q. On or about June 12, 2015 did you insert
19 your penis into B [REDACTED] W [REDACTED] anus without her
20 consent?

21 A. On the advice of counsel I invoke my Fifth
22 Amendment privilege against self-incrimination under
23 the United States Constitution and under Article I,
24 Section 19 of the Missouri Constitution. I
25 respectfully decline to answer your question.

1 Q. On or about June 12, 2015 did you touch
2 B [REDACTED] W [REDACTED] breasts with your hands or fingers
3 without her consent?

4 A. On the advice of counsel I invoke my Fifth
5 Amendment privilege against self-incrimination under
6 the United States Constitution and under Article I,
7 Section 19 of the Missouri Constitution. I
8 respectfully decline to answer your question.

9 Q. On or about June 12, 2015 did you touch
10 B [REDACTED] W [REDACTED] vagina with your hands or fingers
11 without her consent?

12 A. On the advice of counsel I invoke my Fifth
13 Amendment privilege against self-incrimination under
14 the United States Constitution and under Article I,
15 Section 19 of the Missouri Constitution. I
16 respectfully decline to answer your question.

17 Q. On or about June 12, 2015 did you demand
18 B [REDACTED] W [REDACTED] to give you oral sex?

19 A. On the advice of counsel I invoke my Fifth
20 Amendment privilege against self-incrimination under
21 the United States Constitution and under Article I,
22 Section 19 of the Missouri Constitution. I
23 respectfully decline to answer your question.

24 Q. On or about June 12, 2015 did B [REDACTED]
25 W [REDACTED] give you oral sex?

1 A. On the advice of counsel I invoke my Fifth
2 Amendment privilege against self-incrimination under
3 the United States Constitution and under Article I,
4 Section 19 of the Missouri Constitution. I
5 respectfully decline to answer your question.

6 Q. On or about June 12, 2015 did B [REDACTED]
7 W [REDACTED] give you oral sex against her will?

8 A. On the advice of counsel I invoke my Fifth
9 Amendment privilege against self-incrimination under
10 the United States Constitution and under Article I,
11 Section 19 of the Missouri Constitution. I
12 respectfully decline to answer your question.

13 Q. On or about June 12, 2015 did you perform
14 any sex acts with B [REDACTED] W [REDACTED] that were
15 consensual?

16 A. On the advice of counsel I invoke my Fifth
17 Amendment privilege against self-incrimination under
18 the United States Constitution and under Article I,
19 Section 19 of the Missouri Constitution. I
20 respectfully decline to answer your question.

21 Q. On or about June 12, 2015 did you perform
22 any sex acts with B [REDACTED] W [REDACTED] that were non-
23 consensual?

24 A. On the advice of counsel I invoke my Fifth
25 Amendment privilege under self-incrimination under

1 the United States Constitution and under Article I,
2 Section 19 of the Missouri Constitution. I
3 respectfully decline to answer your question.

4 Q. Did you resign from the City of St. Louis
5 Police Department as a police officer on or about
6 June 13, 2015?

7 A. On the advice of counsel I invoke my Fifth
8 Amendment privilege against self-incrimination under
9 the United States Constitution and under Article I,
10 Section 19 of the Missouri Constitution. I
11 respectfully decline to answer your question.

12 MR. SCHOTTEL: Have that question
13 certified for the Court, please.

14 Q. (By Mr. Schottel) Why did you resign as a
15 police officer with the City of the St. Louis Police
16 Department?

17 A. On the advice of counsel I invoke my Fifth
18 Amendment privilege against self-incrimination under
19 the United States Constitution and under Article I,
20 Section 19 of the Missouri Constitution. I
21 respectfully decline to answer your question.

22 MR. SCHOTTEL: Have that question
23 certified for the Court.

24 Q. (By Mr. Schottel) Prior to your encounter
25 with B [REDACTED] W [REDACTED] on or about June 12, 2015 have

1 other women made complaints with the City of St.
2 Louis Police Department against you regarding sexual
3 misconduct?

4 A. On the advice of counsel I invoke my Fifth
5 Amendment privilege against self-incrimination under
6 the United States Constitution and under Article I,
7 Section 19 of the Missouri Constitution. I
8 respectfully decline to answer your question.

9 MR. SCHOTTEL: Have that question
10 certified for the Court, too, please.

11 Q. (By Mr. Schottel) On or about June 12,
12 2015 did the City of St. Louis Police Department have
13 any policies or procedures relating to male officers
14 attending to calls of alleged female victims?

15 A. On the advice of counsel I invoke my Fifth
16 Amendment privilege against self-incrimination under
17 the United States Constitution and under Article I,
18 Section 19 of the Missouri Constitution. I
19 respectfully decline to answer your question.

20 MR. SCHOTTEL: Have that question
21 certified for the Court, please.

22 Q. (By Mr. Schottel) Prior to June 12, 2015
23 were you given any training by the St. Louis City
24 Police Department regarding the arrest or detention
25 of female subjects?

1 A. On the advice of counsel I invoke my Fifth
2 Amendment privilege against self-incrimination under
3 the United States Constitution and under Article I,
4 Section 19 of the Missouri Constitution. I
5 respectfully decline to answer your question.

6 MR. SCHOTTEL: Have that question
7 certified for the Court. I have no further
8 questions.

9 MR. MUDD: I have no questions for
10 Mr. Stewart today.

11 MR. SCHOTTEL: You going to instruct on
12 whether he will read or waive?

13 MR. MUDD: Mr. Stewart, you have the
14 option to either read the deposition transcript just
15 to see if there is any, you know, misspellings or
16 typographical errors, or you can waive signature.
17 Most people will waive signature trusting the court
18 reporter's done a good job, but it's up to you if you
19 want to review the transcript before it's finalized.

20 THE WITNESS: Under advice of counsel I
21 elect to waive my right to read the transcript.

22 MR. MUDD: Okay. You'll waive signature?

23 THE WITNESS: I'll waive signature.

24 MR. MUDD: We'll waive.

25 THE REPORTER: Would you like a copy of

1 this?

2 MR. MUDD: Can I email and let you know?

3 THE REPORTER: Sure.

4

5 (SIGNATURE OF WITNESS WAIVED BY AGREEMENT).

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NOTARIAL CERTIFICATE

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

I, Kelly J. Daniels, a Certified Shorthand Reporter and a duly commissioned Notary Public within and for the State of Missouri, do hereby certify that there came before me at the office of Mr. James W. Schottel, 906 Olive Street, PH, St. Louis, Missouri

JOHN STEWART,

who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon carefully examined under oath and said examination was reduced to writing by me; and that this deposition is a true record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on November 12, 2018.

My Commission expires August 23, 2021.




Kelly J. Daniels, CCR, CSR
Notary Public